



03-05-07

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PTO/SB/64 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

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IPW

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
ChG\_00107

First named inventor: Suresh C. Srivastava

Application No.: 10/768,996

Art Unit: 1642

Filed: January 30, 2004

Examiner: Brandon J. Fetterolf, Ph.D.

Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in  
the form of elections in response to restriction requirement (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to  
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any  
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,  
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED  
FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/05/2007 HVUONG1 00000028 10768996

01 FC:2453

750.00 OP

## 3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

*Indu M. Anand*  
Signature

3/3/07  
Date

Indu M. Anand  
Typed or printed name

52,557  
Registration Number, if applicable

15 Green Way  
Address

(978) 250-9003  
Telephone Number

Chelmsford, MA 01824  
Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

3/3/07  
Date

*Indu M. Anand*  
Signature

Y. Anand  
Typed or printed name of person signing certificate

Express Mail Label # EB 232 953370 US



ChemGenes Corporation, 33 Industrial Way, Wilmington, MA 01887

(978) 694-4500

Toll Free: 1-800-762-9323

FAX: (978) 694-4502

February 16, 2007

**Mail Stop Petition  
Commissioner for Patents**

P. O. Box 1450  
Alexandria, VA 22313-1450

Re:    Application Number: 10/768,996  
      Filing Date:        1/30/2004  
      Applicant:         Suresh C. Srivastava, et al  
      Title:              Novel oligonucleotides and related compounds  
      Art Unit:           1642  
      Examiner:          Brandon J. Fetterolf, Ph.D.  
      Date of Last Notice: 03/24/2006

Sir:

This statement is submitted as part of the petition to revive under 37 CFR 1.137(b) the above-referenced non-provisional application for which the Notice of Abandonment was mailed by the United States Patent and Trademark Office on 03/24/2006.

I understand that this Notice resulted from our failure to timely file a proper reply to the Office letter mailed on 29 July 2005, communicating a restriction and/or election requirement for the claims pending in a non-final office action. Please allow me to set out below the circumstances causing the delay, and to respectfully submit that the entire delay in filing of the required reply was unintentional. If necessary, we shall submit further evidence of any of the facts presented herein.

Prior to abandonment, the application had an extensive transactional history, representing a significant effort and commitment on part of ChemGenes Corporation. In particular, based on the promising results for treatment of hitherto untreatable forms of colon cancer presented as part of the application, our petition to make the application special was granted on March 25, 2005. The application was also published under the pre-grant publication program on July 21, 2005.

However, as explained below, our recent lapses have been due to two factors over which we had little control: miscommunication with and by our representative, Attorney Inna S. Landsman, and an inability to track an independent co-inventor, Dr. Kwok-Hung Sit.

Attorney Landsman was retained by ChemGenes to process multiple patent applications, and in October 2003 started guiding the process of filing the aforementioned Nonprovisional application and the related Provisional application Ser. No. 60/531,237, filed on 12/20/2003. Attorney Landsman joined a new law firm on August 1, 2004, and in

*"BioTechnology Products & Manufacturer of DNA-RNA Intermediates"*



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retrospect, it appears that our direct communication with her suffered from that transition. For instance, Attorney Landsman communicated to us the restriction requirement in a letter dated August 4, 2005, but failed to present my election and response (copy enclosed) to the USPTO, even though I had mailed the same to her on August 27, 2005. Yet, she informed us of the publication date and Notice of Publication of the patent application in her letter dated September 7, 2005.

We have found out since that time that Attorney Landsman had withdrawn from the application as of June 27, 2005. The fact of her *withdrawal* from the application was not communicated to us directly by Attorney Landsman. Furthermore, the fact was only communicated by an oblique reference in a USPTO letter of August 12, 2005 (copy enclosed ), the significance of which letter, unfortunately, was lost on us.

I apologize for my failure to recognize the withdrawal by Attorney Landsman. However, I respectfully submit that given the time-line of communications sketched above and in the absence of clear information to the contrary, I continued to believe that Attorney Landsman had filed the required response to restriction requirement of July 29, 2005, until we received the Notice of Abandonment in March 2006.

Since April 2006, our efforts to advance the prosecution of this application have continued to be stymied by our inability to contact one of our co-inventors, Dr. Kwok-Hung Sit of Singapore.

Two of the three inventors named in this patent application, namely I, Suresh C. Srivastava, and Satya P. Bajpai, have been full-time employees of ChemGenes Corp. for the entire time period since the filing of the Provisional and the Nonprovisional applications, and as such, under an obligation to assign any resulting patent to ChemGenes Corporation. Our third co-inventor, Dr. Kwok-Hung Sit collaborated very actively on the investigations presented in the patent application Ser. No. 10/768,996 between October 2002 and March 2004.

We have repeatedly attempted to contact Dr. Sit in Singapore since the receipt of the Notice of Abandonment, but despite our diligent effort, we have been unable to get his concurrence for further prosecution the application. As the copies of the written communications enclosed herewith show, for several months we repeatedly tried to reach him by e-mail and telephone as well as by certified mail sent to his last known address. Except for one brief telephone conversation in September 2006, when he promised to cooperate, we have been unsuccessful in our attempts to contact him or get a response from him. Under the circumstances, we have no option at this time but to seek to proceed with the prosecution of the application, in anticipation of his concurrence but without his participation.

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In order to rectify the previous errors and to competently handle the prosecution of the application, ChemGenes has now retained the services of legal counsel registered to practice before the USPTO.

Whereas the Nonprovisional Patent application Ser. No. 10/768,996 pertains to unique and important cancer treatment; whereas ChemGenes Corporation has expended significant resources in the past in behalf of the background research and prosecution of the patent application; whereas ChemGenes has once again taken affirmative steps to advance the prosecution of the patent application; and, whereas the entire delay in the filing of our requisite reply was unintentional, I therefore request revival of the Nonprovisional Patent Application Serial Number 10/768,996 for prosecution. In short, Sir, we seek an opportunity to have the patent application considered on its merits with its date of priority, and to conduct the prosecution of the application on behalf of ChemGenes Corporation as well as on behalf of our unavailable co-inventor, Dr. Kwok-Hung Sit.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'S. Srivastava', written over a horizontal line.

Suresh C. Srivastava  
President and CEO



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

C0005/7000

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,996	01/30/2004	Suresh C. Srivastava	CHMG-10	4323

35793 7590 07/29/2005

INNA S. LANDSMAN  
7 GORDON RD.  
ARLINGTON, MA 02474



EXAMINER

FETTEROLF, BRANDON J

ART UNIT PAPER NUMBER

1642

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

File Folder	<input checked="" type="checkbox"/>	
Client Info Access	<input checked="" type="checkbox"/>	
Docket Entry	<input checked="" type="checkbox"/>	
Docket Entry Off	<input checked="" type="checkbox"/>	
Order Change	<input checked="" type="checkbox"/>	
Amendment	<input checked="" type="checkbox"/>	
Other	<input checked="" type="checkbox"/>	8/24/05

AUG -3 2005

AUG -3 2005

**Office Action Summary**

Application No.

10/768,996

Applicant(s)

SRIVASTAVA ET AL.

Examiner

Brandon J. Fetterolf, PhD

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-44 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Application/Control Number: 10/768,996

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Art Unit: 1642

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-37, as specifically drawn to an oligonucleotide for preferentially killing cancer cells over non-cancerous cells comprising at least two CpG moieties and a prodrug for an antimetabolite covalently linked to the oligonucleotide, classified in class 535, subclass 22.1.
- II. Claims 38-44, as specifically drawn to a compound, classified in class 536, subclass 4.1.

The inventions are distinct, each from the other because of the following reasons:

The inventions of Groups I-II represent separate and distinct products which are made by materially different methods, and are used in materially different methods which have different modes of operation, different functions and different effects. In the instant case, the oligonucleotide for preferentially killing cancer cells over non-cancerous cells comprising at least two CpG moieties and a prodrug for an antimetabolite covalently linked to the oligonucleotide of Group I and the compound of Group II are structurally and/or chemically and/or functionally distinct compounds such that one invention could not be interchanged with the other. For these reasons the inventions of Groups I-II are patentably distinct.

Because the inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification, and the search required for each group is not required for other groups because each group requires a different non-patent literature search due to each group comprising different products and/or method steps, restriction for examination purposes as indicated is proper.



Application/Control Number: 10/768,996

Page 3

Art Unit: 1642

### *Species Election*

This application contains claims directed to the following patentably distinct species of the claimed invention:

Claims 2 and 25, Group I, are generic to a plurality of disclosed patentably distinct species comprising the following Antimetabolites, 2'-deoxy-3'-thiacytidine, 3'-azido-3'-deoxythymidine, ... chlorodeoxyadenosine and pentostatin which differ at least in chemical structure and function such that one species could not be interchanged with the other.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Inna Landsman on July 27, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made. In the instant case, Inna Landsman requested a written restriction requirement.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Application/Control Number: 10/768,996

Page 4

Art Unit: 1642

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Fetterolf, PhD whose telephone number is (571)-272-2919. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brandon J Fetterolf, PhD  
Examiner  
Art Unit 1642

BF

  
GARY B. NICKOL, PH.D.  
PRIMARY EXAMINER



33 Industrial Way, Wilmington, MA 01887

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Fax: 978-694-4502

Toll Free: 800-762-9323

5

www.chemgenes.com



August 27, 2005

Inna S. landman  
Kudirka & Jobse, LLP  
One State Street, Suite 800  
Boston, MA 02109

Re. U.S. Patent Application No. 10/768.996 Entitled NOVEL OLIGONUCLEOTIDES  
AND RELATED COMPOUNDS

Reference: C0005/7000 (formerly CHMG-10)

Subject: Selection of Claims

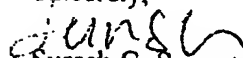
Dear Inna,

I would like to elect the claims 1-37, group I among the specific species. I will pick 3'-azido-3'-deoxy Thymidine in both claims 2 & 25.

Please let me know, if you have any questions.

Thanking you,

Sincerely,

  
Suresh C. Srivastava, Ph.D.  
President

Ref.  
Dep:

Date: 08/27/2005  
Wgt: 1.0 LBS

DV:

SHIPPING.  
SPECIAL:  
HANDLING  
TOTAL.

10.55  
1.32  
0.00  
11.87

Svcs: PRIORITY OVERNIGHT  
TRCK: 7056 5851 0340



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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10768,996	01/30/2004	Suresh C. Srivastava	CHMG-10

SURESH C. SRIVASTAVA, Ph.D  
CHEMGENES CORPORATION  
33 INDUSTRIAL WAY  
WILMINGTON, MA 01887



CONFIRMATION NO. 4523



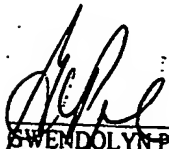
\*OC000000016763436\*

Date Mailed: 08/12/2005

**NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 06/27/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

  
SWENDOLYN PAYNE  
1600 (571) 272-0500

OFFICE COPY



Jun 27 2005 2:17PM

Inna Shtivelband Landsman 781 648 0301

P.1

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CENTRAL FAX CENTER

JUN 27 2005

PTO/SB/21 (09-04)

Approved for use through 07/31/2005. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OTRP control number.

<b>TRANSMITTAL FORM</b> <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/768,998
	Filing Date	January 30, 2004
	First Named Inventor	Srivastava
	Art Unit	1632
	Examiner Name	Not Known
	Attorney Docket Number	CHMG-10
Total Number of Pages in This Submission	2	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavit/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD  Remarks	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Request for Withdrawal as Attorney or Agent and Change of Correspondence Address

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm Name	Inna Shtivelband Landsman, P.C.
Signature	<i>Inna Landsman</i>
Printed name	Inna Landsman
Date	6/27/05
Reg. No.	44337

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Signature	<i>Inna Landsman</i>
Typed or printed name	Inna Landsman
Date	6/27/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to the (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.

Post office

Receipt of  
letter sent  
to  
Dr. Sit

Registered No.

Date Stamp

95748027493410			
To Be Completed By Post Office	Reg. Fee	\$7.90	
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To Be Completed By Customer (Please Print) All Entries Must Be In Ballpoint or Typed	FROM	Dr. Suresh C. Srivastava	
		Chem Genes corp	
		33 Industrial Way,	
	TO	Wilmington, MA 01887, USA	
		Dr. Kok Hung Sit	
		33 Jalan Kakatua	
Singapore 59855-2			
SINGAPORE			

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ChemGenes Corporation, 33 Industrial Way, Wilmington, MA 01887

(978) 694-4500

Toll Free: 1-800-762-9323

FAX: (978) 694-4502



October 29, 2006.

Page 1

Dear Dr. Sit:

*Copy of this  
sent to Dr. Sit  
by Registered mail*

As I indicated recently in my email to you, Inna is no longer associated with us as attorney of Record for the Nonprovisional Patent Application #, 10/768,996 for Gemcitabine . Titled Novel Oligonucleotides...., currently abandoned according to the enclosed Notice of Abandonment from the USPTO of (date).

I am engaging Dr. Indu Anand, a registered patent attorney, to prosecute this application on on-going basis.

More importantly we need to revive the application as quickly as possible.

Your authorization of this attorney is required by the patent office to perform the services required. This is done on the prescribed form, PTO/SB/81 (01-06). I am enclosing this form for your signature. I am also enclosing the same form for your information, which I have already signed.

If you agree to retain Dr. Indu Anand as your attorney as well, then please review the form, sign and date it, and mail or fax it back to me at your earliest possible. In case you choose to retain another patent attorney registered to practice before the USPTO, please have him or her fill out the form and send a copy of the same to me at your earliest possible.

If you do not wish to retain an attorney, but wish to join in the revival and prosecution of the application pro se, please let me know in writing of your decision by return mail. In that case ChemGenes will coordinate the prosecution of the application with you through Attorney Anand.

As you know, time is of the essence in our efforts to revive the application and to prosecute the application before the PTO for grant of the patent. Furthermore, timing of the patent grant is also important in bringing the resulting product to market, in the success of our marketing campaign and in profiting from our efforts. Therefore, I urge you to join us to revive the application without any further delay.

If we act quickly even at this point in time, there may be a reasonable chance to revive the application that we at ChemGenes Corporation do not wish to forfeit. If you do not respond within 30 days of the receipt of this letter, we shall regrettably assume that you no longer wish to participate in our efforts to further the prosecution of the application. We shall then petition the USPTO for a waiver so that we can proceed without your participation. Please know that in that case, there may be other economic consequences in addition to the cost of the petition which you may have to bear.

*"BioTechnology Products & Manufacturer of DNA-RNA Intermediates"*



# ChemGenes

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Page 2. October 29, 2006

Dr. Anand has communicated to me her willingness to discuss this matter with you if you so wish. Please feel free to direct to her any question you may have by mail, email, telephone or fax. Her contact information is as follows:

Attorney Indu M. Anand

Law Offices of Indu M. Anand

P.O. Box 455, Chelmsford, MA 01824

929 Massachusetts Avenue, Level 01, Cambridge, MA 02139

Telephone: (978) 250-9003, (617) 930-5000, (617) 576-5544

Facsimile: (978) 250-7074

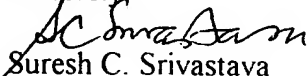
E-mail: indu\_m\_anand@yahoo.com

Her residential mailing address is: 15 Green Way, Chelmsford, MA 01824.

Needless to say that unless the application is quickly revived, I cannot either present in any conference, meetings, any interested parties, or even publish the result in any journal. I feel we can really capitalize on this technology. Further from the other notice from the patent office, this application was granted accelerated status for prosecution. However with current status of abandonment of the patent application, the whole matter is now status quo.

With warm regards,

Sincerely,

  
Suresh C. Srivastava

Suresh C. Srivastava, Ph.D.  
President and CEO



Dr. Sit Kwok Hung  
33 Jalan Kakatua  
Singapore 598552  
Singapore

October 29, 2006

TO WHOM IT MAY CONCERN

I, Dr. Sit Kwok Hung, of 33 Jalan Kakatua, Singapore 598552, Singapore, hereby authorize Dr. Suresh C. Srivastava, President and CEO of ChemGenes Corporation of 33 Industrial Way, Wilmington, Massachusetts 01887, U.S.A., to enter into a contract on my behalf with Attorney Indu M. Anand of the Law Offices located at 929 Massachusetts Avenue, Level 01, Cambridge, Massachusetts 02139 ("Attorney") to perform the legal services in the matter specified in paragraph (1A) below, which services Attorney agrees to perform faithfully and with due diligence, inasmuch as my interests as inventor are compatible with the interests of ChemGenes Corporation in the within matter. I understand that the Attorney shall provide to me timely updates of the progress in the matter as well as the advice to engage an independent attorney in the event that my interests in the future are in potential conflict with the interests of ChemGenes Corporation.

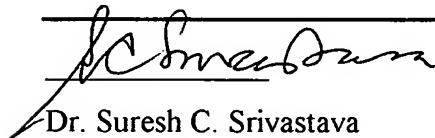
(1A) The reinstatement for prosecution and the prosecution before the United States Patent and Trademark Office of the United States Patent Application Serial Number 10/768,996, and the related matter of the Provisional Patent Application Serial Number 60/525,691.

---

Dr. Sit Kwok Hung

Date

---

  
Dr. Suresh C. Srivastava

President and CEO, ChemGenes Corporation

10/29/06  
Date

copy of this  
send to  
Dr. Sit



**From:** Suresh C. Srivastava  
**To:** indu\_m\_anand@yahoo.com  
**Date:** Tuesday, June 6, 2006 6:28:26 PM  
**Subject:** FW: Forwarding the document to engage Dr. Indu Anand as new attorney on the Gemcitabine patent-I

-----Original Message-----

**From:** Suresh C. Srivastava  
**Sent:** Thursday, June 01, 2006 1:26 AM  
**To:** 'sitkh@singnet.sg'  
**Cc:** 'indu\_anand@yahoo.com'  
**Subject:** FW: Forwarding the document to engage Dr. Indu Anand as new attorney on the Gemcitabine patent- I

Dear Dr. Sit:

As I indicated last week, Inna is no longer associated with us as attorney of Record for the pending Gemcitabine patent application before the PTO USA.

I am engaging Dr. Indu Anand to prosecute this applicaion on on-going basis. More importantly we need to revive the applicaion as quickly as possible.

Your authorization of this attorney is required before she is allowed by the patent office to perform the services required. This is done on prescribed form, PTO/SB/81 (01-06). I am faxing you this form. This form has been filed out by Dr. Indu Anand. Please revicew it and fax back to me.

If you have any question you may also direct to her. Her email address is noted above. I am also signing same form on behalh of ChemGenes Corp.

The attached letter which needs to be signed jointly by ChemGenes and yourself will authorize Dr. Indu Anand to prosecute the application and at the same time represent your interest, as well as ChemGenes. You can print it out, sign and fax back. I will also sign and send back to you a copy of the same.

In a separate email, I am attaching the file given by Inna , which has listed many activities which have been in progress of late. The activities include, printing of the astract of the patent, putting the application on priority basis for examination. So hopefully this application will be examined on fast tract as compared to other pending applications before PTO, USA.

With best wishes and regards,

Suresh C. Srivastava

Suresh C. Srivastava, Ph.D.  
ChemGenes Corp.  
33 Industrial Way  
Wilmington, MA 01887



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22113-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,996	01/30/2004	Suresh C. Srivastava	CHMG-10	4523

7590 03/24/2006  
SURESH C. SRIVASTAVA, Ph.D.  
CHEMGENES CORPORATION  
33 INDUSTRIAL WAY  
WILMINGTON, MA 01887



EXAMINER

FETTEROLF, BRANDON J

ART UNIT PAPER NUMBER

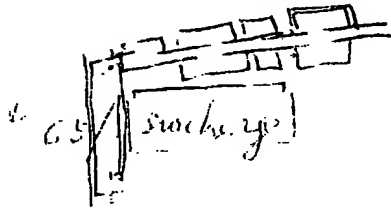
1642

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Maintenance fees

The address where  
in section of  
Res



restriction requirement  
not been filed

into form federal rule  
137 B

delay was unintentional

form # www.uspto.gov

PTC/SB/64 - petition for  
revival  
fill out & sign

Required reply to restriction requirement

Required fees → 37 CFR 1.17 M

\$750/-

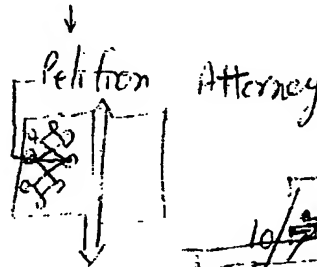
PTO-90C (Rev. 10/03)

3-4 months →

4.00

Petition to Revive application  
Process 571-272-3282

intentional





1

# **Notice of Abandonment**

Application No.

10/768,996

Examiner

Brandon J. Fetterolf, PhD

Applicant(s)

SRIVASTAVA ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 July 2005.

- (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

- (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below.

571-272-2919-  
571 - 272-0787

*Jeffrey Siew*  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER  
3/17/06

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.